

STATE OF VERMONT
WASHINGTON COUNTY, SS.

FILED

2010 JUN 28 P 2:12

IN RE TIMESHARE RELIEF, INC.)

Washington Superior Court

Docket No. 469-6-10 WNCV

SUPERIOR COURT
WASHINGTON COUNTY

ASSURANCE OF DISCONTINUANCE

WHEREAS Timeshare Relief, Inc. ("Timeshare Relief" or "the Company") is a California corporation with offices at 2239 W. 190th Street, Torrance, California 90504, that is engaged in the business of transferring ownership of timeshares for a fee, so that the original timeshare owner may be relieved of maintenance fees, taxes and special assessments associated with the timeshare;

WHEREAS the Company's representatives came to Burlington, Vermont, on at least eight occasions between 2007 and 2010 to solicit consumers to pay to transfer ownership of their timeshares;

WHEREAS the Company advertised these meetings in Vermont with direct mailings to timeshare owners containing statements such as, "If you have tried to get rid of your timeshare with no success, we invite you to call us at 888-391-7734 to find out about our Guaranteed Timeshare Relief Solution. We hope to have the honor of helping you make a beneficial decision for you and your family for generations to come.";

WHEREAS neither the Company's advertising nor its telephone scripts included any reference to consumers having to pay the Company to accept transfer of their timeshares;

WHEREAS a number of Vermont consumers who regarded the costs associated with their timeshares as burdensome understood the Company's advertising to mean that Timeshare Relief would be offering them money in exchange for their timeshares;

WHEREAS in fact, the Company charged consumers purchasing Timeshare Relief's services a fee in the amount of several hundred to several thousand dollars to transfer ownership of the consumers' timeshares;

WHEREAS the Vermont Attorney General ("the Attorney General") alleges that as a consequence, the Company omitted a material fact—namely, the need to pay a fee for Timeshare Relief's timeshare transfer service—from its advertising, in violation of the Vermont Consumer Fraud Act's prohibition on deceptive trade practices, 9 V.S.A. § 2453(a);

WHEREAS through July 2009, the Company's representatives in Vermont used a "Financial Benefits Worksheet" to calculate potential tax deductions as an offset against consumers' payment to Timeshare Relief;

WHEREAS this Financial Benefits Worksheet contained a starred statement at the bottom of the page that read, "These deductions apply to Timeshares purchased as an investment, or purchased with the intent of generating revenue by renting or selling. *If you bought your timeshare for personal enjoyment only, then you should not take these deductions.*" (Emphasis added.);

WHEREAS this statement was not fully true, because an income tax deduction may be claimed for a loss on a timeshare only if the *primary purpose* for which the timeshare was originally purchased was as an investment;

WHEREAS in July 2009 Timeshare Relief unilaterally stopped using the Financial Benefits Worksheet and states that it does not provide income tax advice to consumers;

WHEREAS the Attorney General alleges that by making the above-quoted representation, the Company violated the Vermont Consumer Fraud Act's prohibition on deceptive trade practices, 9 V.S.A. § 2453(a);

WHEREAS the Consumer Fraud Act, 9 V.S.A. §§ 2451a(d) and 2454, also requires sellers of goods or services at a transient location like a hotel in Vermont to offer consumers a three-business-day right to cancel their transaction, which right must be disclosed both verbally and in prominent short-form and long-form written disclosures on and attached to the consumer's contract or receipt, respectively;

WHEREAS prior to October 2008—that is, through its June 2008 seminar in Vermont—the Company did not provide Vermont consumers with all three statutorily required notices of the right to cancel;

WHEREAS instead, the Company's earlier contracts stated, "Client has a three day right of rescission period. Dissolution requires the client to request, in writing, a cancellation form from the TSR office within three calendar days of this agreement, and return the completed form within seven days of receipt";

WHEREAS there was no "short-form" disclosure of the right to cancel above the signature line, nor any reference to any long-form disclosure, as required by Vermont law;

WHEREAS the above language was also difficult for reasonable consumers to understand (with its use of terms like "rescission" and "dissolution"), and it required them to take an added step in order to cancel, namely, to request a cancellation form from the Company;

WHEREAS the Attorney General alleges that the Company's failure to properly disclose consumers' right to cancel in Vermont also violated the Consumer Fraud Act;

WHEREAS in June 2008 Timeshare Relief unilaterally changed its “short form” and “long form” right-to-cancel disclosures to comply with the Vermont Consumer Fraud Act;

WHEREAS of the consumers who attended Timeshare Relief’s presentations in Vermont and have not already received a refund, 56 entered into agreements with the Company and paid the Company a total of over \$202,000;

AND WHEREAS the Attorney General and Timeshare Relief are willing to accept this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459;

THEREFORE the parties agree as follows:

1. In the event that Timeshare Relief does business again in Vermont, Timeshare Relief:

a. Shall comply with all applicable federal and Vermont laws and regulations, including but not limited to the Vermont Consumer Fraud Act, 9 V.S.A. ch. 63, and any regulations promulgated thereunder, and including specifically the three-day right to cancel provisions of the Act; and

b. Shall not give any written or oral tax advice to consumers, other than that they should consult with their accountant or other tax preparer about whether there may be any tax consequence to transferring ownership of their timeshare.

2. The Company shall offer to all Vermont consumers (i) who paid money to the Company before July 2008, and (ii) who did not receive a full refund before that month, (hereinafter the “right-to-cancel consumers”) an opportunity to cancel their transaction.

a. Specifically, within thirty (30) days from the date of this Assurance of Discontinuance below, the Company shall send a notice by certified mail, return receipt requested, substantially in the form attached as Exhibit 1 (with the bracketed information

inserted) (each a "Right to Cancel Notice") to all right-to-cancel consumers listed in the Confidential Addendum hereto (one letter for multiple right-to-cancel consumers residing at the same address). Each Right to Cancel Notice shall offer the addressee an opportunity, within ten (10) business days from receipt, to cancel their transaction in writing or by email and receive a refund of all unrefunded monies paid to Timeshare Relief, with no further obligation to the Company. For this purpose, the term "business day" shall have the same meaning as it does in 9 V.S.A. § 2451a(e).

b. Timeshare Relief shall employ due diligence to determine an accurate mailing address for each right-to-cancel consumer. If a Right to Cancel Notice is returned to the Company as undeliverable, the Company shall promptly notify the Attorney General's Office, which shall have thirty (30) days from receipt of such notification to try to locate a new address for the consumer and provide the new address to Timeshare Relief. No later than ten (10) days after receiving a new address from the Attorney General's Office, the Company shall send to the applicable right-to-cancel consumer at the new address, by certified mail, return receipt requested, another Right to Cancel Notice in substantially the same form as the original Right to Cancel Notice.

c. Within thirty (30) days after receiving a timely written or emailed notice from a right-to-cancel consumer invoking his or her right to cancel identified in a Notice of Right to Cancel, the Company shall send a full refund, in the amount of all unrefunded monies paid by the consumer to the Company, to the applicable right-to-cancel consumer by first-class mail.

d. Each right-to-cancel consumer shall also have the option of receiving back his or her original timeshare from the Company, if the Company is able to locate and transfer the

timeshare back, but only if the consumer exercises that option in writing within ten (10) days after receiving a Right to Cancel Notice from the Company. If the consumer does not exercise that option, the timeshare shall not be transferred back to the consumer.

e. In the event of a dispute about the receipt of a right-to-cancel consumer's cancellation notice, the parties shall attempt in good faith to resolve the issue themselves. If they are unable to do so, either party may petition the Washington Superior Court in Montpelier, Vermont, for a ruling.

f. Within forty-five (45) days after sending the last Right to Cancel Notice, Timeshare Relief shall provide to the Attorney General's Office the names and addresses of the right-to-cancel consumers to whom Right to Cancel Notices and payments were sent under this paragraph 2, and the date and amount of each payment.

g. The parties to this Assurance of Discontinuance have signed a Confidential Addendum hereto, setting out the names of 28 right-to-cancel consumers identified by Timeshare Relief and the amounts they are entitled to under this paragraph, the total of which is approximately \$84,206.

h. In the event that, within one year after the date of this Assurance of Discontinuance below, more than the 28 Vermont consumers identified in the Confidential Addendum qualify as right-to-cancel consumers or any right to-cancel consumer identified in the Confidential Addendum is due a larger refund than stated in the Confidential Addendum, the Attorney General shall have the right to seek to modify this Assurance of Discontinuance accordingly, by agreement or in court, and to seek to increase the dollar amount of the penalties to be paid to the State of Vermont under this Assurance of Discontinuance.

3. Within thirty (30) days after the date of this Assurance of Discontinuance below, Timeshare Relief shall also refund to each Vermont consumer who has paid Timeshare Relief money, but excluding the right-to-cancel consumers (collectively, the "payment consumers"), the sum of two hundred fifty dollars (\$250.00) as compensation for Timeshare Relief's conduct described above.

a. To implement this paragraph 3, within thirty (30) days after the date of this Assurance of Discontinuance below, Timeshare Relief shall mail the payments required by this paragraph 3 to the payment consumers by first-class mail, postage prepaid, with a letter in substantially the same form as Exhibit 2 hereto (each a "Payment Letter"). If a Payment Letter is returned as undeliverable, Timeshare Relief shall make all reasonable efforts to find a valid mailing address for the payment consumer in question and shall promptly resend the Payment Letter and the accompanying payment to the new address. In the event that the Payment Letter is returned again as undeliverable, the Company shall promptly pay, as unclaimed funds, the amount due the applicable payment consumer to the State of Vermont, in care of the Attorney General's Office, 109 State Street, Montpelier, Vermont 05609.

b. The Confidential Addendum hereto sets out the names of 28 consumers identified by the Company who qualify as payment consumers. In the event that more than these 28 consumers qualify as payment consumers within one year after the date of this Assurance of Discontinuance below, the Attorney General shall have the right to seek to modify this Assurance of Discontinuance, by agreement or in court, to make those additional consumers whole, and to seek to increase the dollar amount of the penalties to be paid to the State of Vermont under this Assurance of Discontinuance.

4. The Company shall pay to the State of Vermont, in care of the Vermont Attorney General's Office, the additional sum of fifty thousand dollars (\$50,000.00) in civil penalties and costs, according to the following schedule: twelve thousand five hundred dollars (\$12,500.00) upon signing this Assurance of Discontinuance; and another three installments of twelve thousand five hundred dollars (\$12,500.00) each no later than the tenth day of the months of August, September, and October 2010, respectively.

5. Acceptance of this Assurance of Discontinuance by the Attorney General does not constitute approval of any business practices by Timeshare Relief, nor shall Timeshare Relief or anyone acting on its behalf state or imply otherwise. Acceptance of this Assurance of Discontinuance does not constitute disapproval of any business practice by Timeshare Relief other than the business practices identified on pages one through four above.

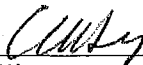
6. This Assurance of Discontinuance shall be binding on Timeshare Relief, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of Timeshare Relief shall promptly take reasonable steps to ensure that copies of this Assurance of Discontinuance are provided to all officers, directors, owners, and managers of Timeshare Relief.

7. This Assurance of Discontinuance resolves all existing claims the State of Vermont may have against Timeshare Relief stemming from the conduct described in this Assurance of Discontinuance to the date of this Assurance of Discontinuance below.

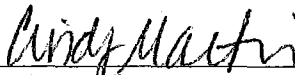
Date: 6/17/10

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

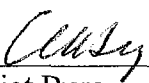
by: 
Elliot Burg
Assistant Attorney General

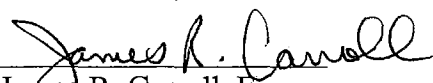
TIMESHARE RELIEF, INC.

by: 
Its Authorized Agent

TimeshareRelief CEO
Name and Title of Authorized Agent

APPROVED AS TO FORM:


Elliot Burg
Assistant Attorney General
Office of the Attorney General
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Montpelier, VT 05609
For the State of Vermont


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For Timeshare Relief, Inc.

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

EXHIBIT 1

NOTICE OF RIGHT TO CANCEL AND RECEIVE A REFUND

Date: _____

Dear _____:

Sometime between November 2007 and June 2008, you attended a presentation by Timeshare Relief, Inc., in Burlington, Vermont, where you signed a contract that transferred ownership of one or more timeshares (your "**Contract**"). Timeshare Relief has recently entered into an agreement with the Vermont Attorney General's office to settle a claim that the company needed to provide you with proper notice of your right under Vermont law to cancel your Contract.

Under the agreement with the Attorney General, you may cancel your Contract, without any penalty or obligation, within ten business days after the date you receive this notice. ("Business days" do not include weekends or holiday.) **If you elect to cancel, Timeshare Relief will refund to you any payment you made under your Contract.** That amount, according to our records, is [insert amount].

To exercise your right to cancel, you must contact Timeshare Relief within ten business days from the date you receive this notice. You may do so by writing to Timeshare Relief to say that you want to cancel and sending your cancellation request by either of these methods:

- By first-class mail to [address].
- By email to: [email address]. If you e-mail, please include your full name in your e-mail.

If you cancel, Timeshare Relief will also return your original timeshare(s) to you if: (a) you request return of your timeshare in writing within ten days from the date you receive this notice *and* (b) your timeshare(s) is/are still available to Timeshare Relief.

If you have any questions, please call the Vermont Attorney General's office at (802) 828-5507.

Sincerely,

On behalf of Timeshare Relief, Inc.

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

EXHIBIT 2

PAYMENT LETTER

Date: _____

Dear _____:

Between July 2008 and February 2010 you attended a presentation by Timeshare Relief, Inc. in Burlington, Vermont, where you signed a contract that transferred ownership of one or more timeshares. Timeshare Relief has recently entered into an agreement with the Vermont Attorney General's office to settle claims alleging that the company omitted material facts from certain advertisements promoting their presentations because those advertisements did not mention that the company charges a fee for transferring timeshares. Under the agreement with the Attorney General, Timeshare Relief has agreed to pay you \$250 to compensate you for the time you spent and travel expenses you may have incurred to attend the presentation.

Enclosed is a check for \$250 payable to you under the agreement with the Attorney General.

If you have any questions, please call the Vermont Attorney General's office at (802) 828-5507.

Sincerely,

On behalf of Timeshare Relief, Inc.

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

STATE OF VERMONT
WASHINGTON COUNTY, SS.

IN RE TIMESHARE RELIEF, INC.)

Washington Superior Court
Docket No. _____

Confidential Addendum to Assurance of Discontinuance

1. Timeshare Relief, Inc. ("Timeshare Relief") and the Vermont Attorney General (the "Attorney General") entered into an Assurance of Discontinuance dated the same day as this Addendum. Under the Assurance of Discontinuance, Timeshare Relief will (a) provide renewed rights of cancellation to the consumers identified as right-to-cancel consumers and (b) pay \$250 to the consumers identified as payment consumers.

2. The names and addresses of the 28 right-to-cancel consumers are identified in Exhibit A attached to this Addendum.

3. The names and addresses of the 28 payment consumers are identified in Exhibit B attached to this Addendum.

Date: 6/17/2010

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by: Elliot Burg
Elliot Burg
Assistant Attorney General

TIMESHARE RELIEF, INC.

by: Cindy Martin
Its Authorized Agent

Timeshare Relief CEO
Name and Title of Authorized Agent

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

Exhibit A
Right-to-Cancel Consumers

[Redacted]

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Addendum – 1

Exhibit B

Payment Consumers

[Redacted]